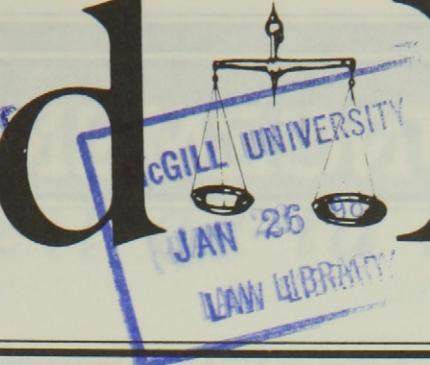


Quid Novi



VOL. IX NO.14

McGILL UNIVERSITY FACULTY OF LAW
FACULTE DE DROIT DE L'UNIVERSITE McGILL

January 24, 1989
le 24 janvier, 1988

Environnement et Désarmement

par Marie Claude Goulet, B.C.L. I

A l'heure où les questions d'actualité tendent plutôt à diviser la population québécoise, il est rafraîchissant d'entendre parler d'un sujet qui nous rassemble tous, tant à l'échelle provinciale que nationale et internationale: l'environnement. C'est en grand nombre que les étudiant(e)s et professeur(e)s se sont réunis le 11 janvier dernier, lors d'une conférence donnée par M. Pierre Marc Johnson et organisée par le groupe des "Avocats en Faveur d'une Conscience Sociale".

Pourquoi l'environnement est-il devenu une préoccupation majeure pour la population et les dirigeants? La réponse est simple, les problèmes de pollution de l'air et de l'eau, des déchets nucléaires et domestiques (pour n'en nommer que quelques-uns) ont pris place dans la vie de chaque citoyen. Nous avons aussi été témoins récemment de nombreuses catastrophes environnementales (Tchernobyl, St-Basile le Grand).

Des solutions, telles que celles proposées par M. Johnson, s'offrent à nous à plusieurs niveaux. A l'échelle locale, un premier effort doit être fait pour obtenir une meilleure compréhension des enjeux environnementaux. C'est à ce niveau que les groupes doivent agir pour identifier des cibles précises auxquelles on devra s'attaquer. Dans la mesure où les meilleures solutions seront celles qui s'attaqueront à la cause plutôt qu'aux effets, chaque citoyen a un rôle actif à jouer, ne serait-ce que dans le domaine des déchets domes-

tiques. Selon M. Johnson, on doit attaquer le problème de l'environnement avec réalisme et se fixer des objectifs concrets. Si on fait de l'environnement une religion, on ne réussira pas à l'insérer à l'agenda de nos dirigeants.

Quant à l'appareil politique, ses efforts ne seront fructueux que lorsque le dossier de l'environnement sera intégré à tous les ministères. M. Johnson suggère aussi une solution intéressante: le couplage des intérêts. C'est ici qu'entre en jeu le désarmement. En effet, la course aux armements, sous prétexte de sauver notre petit univers, devient bien futile si on laisse l'environnement se détériorer à un point tel qu'il ne reste plus rien à sauver! Second exemple de couplage, celui des efforts Nord-

Sud: la pollution et les autres problèmes environnementaux (déchets nucléaires, couche d'ozone) ne connaissent pas de frontière, nos érables peuvent vous en dire quelque chose! Les ententes internationales prennent donc une importance nouvelle. Mais attention, charité bien ordonnée commence par soi-même.

Somme toute, il faut agir vite car il n'y a pas d'alternative à notre Terre? Il faut agir maintenant, chez nous et ailleurs. Espérons qu'il n'y a pas que les "anciens politiciens" qui s'intéressent et réfléchissent aux problèmes de l'environnement. Chose certaine, il y a un nouveau professeur à la Faculté de droit qui nous propose des bonnes solutions.

The Dean's Hot Seat

by Dan Urbas, B.C.L. II

Dean MacDonald and L.S.A. President Norbert Haensel held the first of the "Dean's Hot Seat" sessions last Wednesday, January 18, in Room 102. Attendance was low, peaking at 25. This was due not to a lack of interest but to conflict with a competing meeting held concurrently - namely the Law Games meeting in the Moot Court. Interest was high and many questions were posed to the Dean and the L.S.A. President. Topics raised were faculty policies on streaming, exam re-reads and control of course content. The hottest topic discussed had to be linguis-

tic options. In particular, students asked about any policy change to increase the availability of French instruction in upper-year LL.B. courses and for the B.C.L. courses offered to LL.B. upper year students. Most of these concerns were answered at the "Hot Seat" but the Dean has indicated that he will provide a brief summary of his responses to the *Quid* for publication in an upcoming issue. Students are urged not to wait for the second-hand reviews but to attend in person, to participate and question and hear the answers for themselves. The next "Hot Seat" will be announced in the next week or so.



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ANNOUNCEMENTS

By Norbert Haugel, President, U.S.A.

courses comprising the Faculty's programme in the Law of Persons and the Family.

The Richard Golick Extracurricular Achievement Prize - A prize of \$200 established in 1988 and funded by the proceeds of the Law and You Seminars. Awarded to a second-year student for leadership in extracurricular activities, particularly those extracurricular activities, that bring recognition to the Faculty through service to the community.

The J.S.D. Tory Writing Awards - Established by the firm Tory, Tory, Deslauriers & Binnington in 1989 in memory of its founder, J.S.D. Tory. These awards are intended to support one to four students writing in the Faculty and to permit students having submitted outstanding term essays to revise such essays for publication.

Contest Winner

The Skit Nite Committee would like to thank all those who submitted theme suggestions to our contest. There are a lot of very strange (oops! we mean talented) people out there. Most of the ideas were too specific to carry the entire show but can, and should, be worked up as individual skits. See Brian Shiller for more information.

And the winner is ... Robert Besunder (LL. B. III) for *Laws Vegas*. Robert was informed of the selection of his theme and has graciously declined to accept the prizes (two front row seats to the event of the decade and a skit nite '89 t-shirt) without making an equivalent contribution to the charities. Right Robert? Geez, what a guy!

Clerkships, Federal Court of Canada Postes d'auxiliaires juridiques, Cour fédérale du Canada

Les juges de la Cour fédérale du Canada recrutent actuellement des auxiliaires juridiques ("law clerks") pour l'année 1990-91. Les auxiliaires juridiques effectuent des recherches sur des points de droit sous la direction du juge auquel ils sont assignés. Le salaire est de 25,057 \$, et certains barreaux considèrent que les fonctions d'auxiliaire juridique remplacent entièrement ou en partie le stage obligatoire.

Les diplômés bilingues du Programme National ont d'excellentes chances d'être engagés par la Cour fédérale. Pour de plus amples informations, s'adresser au vice-doyen Jutras. La date limite pour le dépôt des candidatures est le 10 mars 1989.

Three New Prizes to be Awarded

In its meetings of November 10, 1988 and January 12, 1989, the Faculty Council approved the following new prizes:

The Board of Notaries Prize - A prize of \$200 founded in 1988 by the Board of Notaries of Quebec. The prize is awarded to a student graduating with a B.C.L. degree who has achieved distinguished standing in the group of

Law Students

You want some change?

You want to live an experience in another city for a year?

You can do your inscription at the Bar school of Québec City?

I am a law student from Laval University in Québec City and I would like to do my inscription at Montréal's Bar School. Even if the limited space doesn't permit anymore transfers, it's possible to choose the Bar School that you want if we make an exchange.

So, if you are interested in coming to the Bar School of Québec, just let me know.

Lise Caron
1715 Sheppard, no. 3
Sillery, Québec
G1S 1K5
(418) 688-0224

Nouvelles du Conseil de la Faculté

par Johanne Poirier, B.C.L. II

Lors de sa réunion du 12 janvier dernier le Conseil de la Faculté s'est penché sur les questions suivantes:

1. Le système de levée de fonds de McGill est en phase de décentralisation. Scott DeJong est attitré à la Faculté de droit et veillera à la création d'un programme de levée de fonds auprès des anciens de la Faculté. M. DeJong a souligné qu'en moyenne, les anciens de la Faculté sont plus généreux que ceux de l'université en général. Toute personne intéressée à participer à une campagne de levée de fonds est priée de s'adresser au Doyen.

2. Suite à une question de Kevin Woodall,

représentant de l'AED au sujet du nouveau cours "Language, Ethics and Law", offert par le juge Abella et le Doyen, celui-ci a expliqué qu'il s'agit en fait d'une "dissertation de semestre" (term essay, j'ai fait de mon mieux!) à laquelle se greffent des discussions hebdomadaires. Puisqu'il ne s'agit pas d'un nouveau cours comme tel, son contenu n'a été ni examiné ni approuvé par la comité du curriculum. La clientèle visée par ce cours et énumérée dans la description du cours n'est, selon le Doyen, qu'une indication du type de personnes qui pourraient vraisemblablement s'intéresser aux questions discutées.

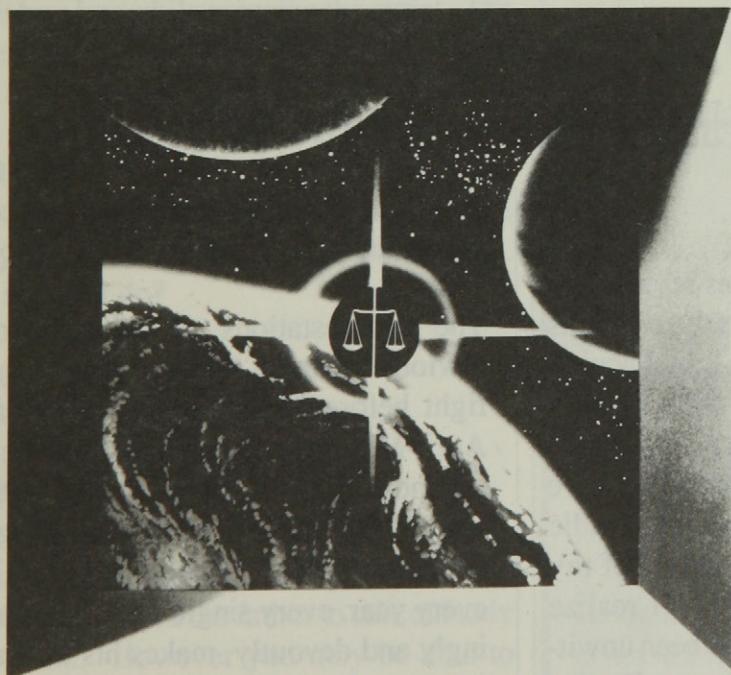
3. Le bibliothécaire, M. Hobbins a

souligné que le nombre d'écrans dédiés au système MUSE sera augmenté cette année et qu'un écran sera placé à chaque étage afin de faciliter la recherche.

Il a également indiqué que le budget alloué à l'acquisition ne suffit pas, surtout en ce qui a trait aux périodiques. Il est à noter toutefois que cette année deux fois plus de livres seront achetés que l'an dernier.

Une nouvelle politique d'accès à la bibliothèque à l'extérieur des heures normales d'ouverture, particulièrement pendant l'été, a été discutée mais aucun consensus n'a été atteint. L'affaire a été transmise au comité de la bibliothèque qui veillera à instituer cette politique.

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- 2- L'abonnement gratuit à la Revue du Barreau canadien, publiée trimestriellement;
- 3- L'abonnement gratuit au Journal "National", publié mensuellement;
- 4- Rabais importants de primes d'assurance-automobile et habitation;
- 5- Tarifs préférentiels pour la location automobile;
- 6- Tarifs spéciaux dans plusieurs chaînes d'hôtels;
- 7- Agenda de poche annuel (valeur de \$15.00);
- 8- Et plus encore...

Saviez-vous que quelques-uns de ces avantages permettent à eux seuls d'acquitter le coût de votre cotisation annuelle?

Pour information:

communiquez avec votre association étudiante ou avec l'Association du Barreau canadien - Division du Québec
(514) 393-9600

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Calendar of Events

January

January 25 12h00 Annie Macdonald Langstaff Workshop
Prof. Lucie Lamarche (UQAM)
"Stratégies judiciaires féministes au Québec"
Room 202, Chancellor Day Hall

January 27 12h00 Legal Theory Workshop
Charles Taylor (McGill)
Room 202, Chancellor Day Hall

February

February 1 12h00 Sexual Assault Panel Discussion
(Location to be announced)

February 2 15h00- Happy House Coffee Hour III
18h00 Common Room Old Chancellor Day Hall

February 3 12h00 Legal Theory Workshop
Pierre Legrand Jr.
"The Case for Judicial Reunion of Contracts"
Room 202, Chancellor Day Hall

PILGRIMAGE TO THE WAILING WALL

by Ali T. Argun, LL.B. IV

Being the typical product of this secular age of ours, I was not a particularly religious person before my arrival at the Law Faculty. Being Moslem, this was probably a good thing for me, given the slide that many Islamic countries have undergone since the new wave of Fundamentalism took hold in the Middle East (witness Iran.) I was very proud of my enlightened secularism. But, alas, I realize now in retrospect that in fact, I've been unwittingly and irresistibly drawn into a Fundamentalism which is pervasive here in our Hallowed Halls. I've also noticed that this incipient over-zealousness affects each and every one of us who studies here. We are, quite literally, members of a cult which recruits its members so covertly that we are

programmed beyond escape by December of our first year here.

The manifestations of our affliction are obvious. Stress, fatigue and ill-humour right before the Christmas break and in April-May are all symptoms. But the clearest indication of our condition is the bi-annual Pilgrimage to our own Wailing Wall. Jerusalem ain't got nothin' on us! Twice every year, every single one of us, unthinkingly and devoutly, makes his or her own journey of revelation.

It is not unprecedent in nature, you know. Salmon do it annually, returning to their stream of origin to spawn or die trying. The giant eel-birds of Regulus seek their caverns

cont'd on p.6

Eight Years Ago in the Quid

In light of the recent fate suffered by the *Plumber's Pot* (former Engineering Undergraduate Society newspaper) and the surrounding issue of freedom of the press (and dare we say it, freedom of expression), we give you a glimpse into the *Quid*'s past and its brush with these ideas.

The following excerpts are taken from the *Quid Novi* of March 18, 1981 and March 25, 1981 respectively.

The first excerpt is from a "Dear Bora" column and the second is an exchange between a letter to the editor and a reply to that letter.

DEAR BORA,

Last year a man approached me and said that he would pay me a large sum of money if I would be artificially inseminated and give him the baby. At the time I was a little short of cash so I agreed. During my pregnancy I was hit by a bus while crossing the street. The accident was completely due to the negligence of the driver. Because of this event the baby was born with SYAWMART LAERTNOM imprinted on his forehead. Now, although the man has paid me the money he refuses to take custody of his child. What should I do?

Signed, Mlle L.V. Lajupe.

Dear Mlle Lajupe,

I am sorry to inform you that you will have little chance to force the father to take custody of the child. However you may be able to claim support for the child through the Family Law Reform Act. Failing this the court may award support through the imposition of a resulting trust, or, alternatively, award damages in compensation for the breach of his defendant promise. I wish you luck in this endeavour and confidence that your son will

find a challenging career stamping stationery for the bus company.

Letter to the Editor:

As the editor/printer of *Quid Novi*, I think that you should have a little more taste in what you allow to be printed. The damn "Dear Bora" has disgusted and offended me each time I have had the displeasure of reading it. This last issue (March 18th) has really gone too far and I am fed up with seeing it. Do you really think that anyone in this school finds it funny? It wins the prize for sexism and the crudest form of infantile humour that even a 5 year old would already be bored with. Whoever does find it funny ought to be ashamed of himself, and you should too, for having the gall to even print it. Graffitti is more sophisticated.

Doris Zicherman
LL.B IV

Dear Ms. Zicherman,

I would like to thank you for your letter. It might not be constructive but at least it is a response. *Quid Novi* did not get much written feed-back lately.

Following the reception of your letter, I ran a little informal survey: I asked students (I did not know) whether they read Dear Bora, and what they thought about it. I must admit that I was agreeably surprised to find out that most of them did like it.

I am really sorry if the Dear Bora section offended you, but since there is no way to please everybody, I guess I can only suggest that you stop reading Dear Bora ... if it displeases you so much.

Paul Beaubien
L'éditeur.

Bar/Bri - *New York Bar Review Program*

Quebec, Ontario and British Columbia define only the limits of your imagination, not the possibilities available to you as a law school graduate. Alternatives do exist outside of Canada, and New York is one of the more attractive of these. Bar/Bri offers the most extensive of all the bar preparatory courses in New York, as well as offering preparatory courses for bar exams in most other states.

Being a member of the New York Bar also has attractive advantages for the student who is not necessarily interested in practicing law, either in Canada or in the States. If you are considering working abroad, being a member of the New York Bar carries considerable weight with overseas companies.

All those interested in either writing the New York Bar, or simply in obtaining more information, are asked to contact Joani Tannenbaum at 989-1529 for details.

Skit Nite

Fundraising - 1989

by Lisa Balaban, B.C.L. IV and Benjy Glustein, LL.B. IV

As you all know, Skit Nite provides an annual opportunity for us to seek revenge against our distinguished faculty, laugh at ourselves, and drink until dawn. And, oh yeah, we also raise money for the **Old Brewery Mission and Chez Doris**. The Skit Nite Committee thought it might be interesting if we, at the faculty, knew a bit more about the organizations which benefit from our annual antics.

The Old Brewery Mission, which takes its name from one of its earlier locations, the old Williams Brewery Building, is preparing to celebrate its 100th anniversary in October 1989. What began as an emergency soup kitchen in 1889 has expanded into the only shelter in the city to provide food and shelter 24-hours a day. On the average, 350 homeless and destitute men are helped at the Mission daily. An average stay is 10 days, although there are a number of pensioners and welfare recipients who reside at the Mission on a more permanent basis. Although the Mission has only 150 beds and a few cots, its policy is that no one will be turned away. When the beds have been assigned, blankets are passed out and the men take their places on the dining room floor.

As the demand for its services continues to grow, the Mission is preparing to expand. Plans are well underway to construct a new \$2.5 million facility on St. Lawrence Blvd. The new facility will be geared to providing shelter and services to the youth of the streets. The new complex will house an additional 71 beds and will keep the younger men separate from the older, frailest men. As with the current Mission, the new complex will provide food and shelter, a clothing store, and attempt to find jobs within the Mission to break the cycle of homelessness.

These statistics demonstrate the importance of the Mission: in 1988 alone the Mission provided -

Night lodging for	52,220
Free meals to	251,987
Jobs of work to	11,970
Articles of clothing to	390,000
Personal interviews to	5,290

This year, we have a large and eager group of fundraisers who will hopefully make "Laws Vegas" a great success for the charities represented by McGill students. See you at Skit Nite, March 16.

On behalf of Rev. McCarthy, we thank everyone for their support. In next week's *Quid Novi* we will introduce you to Chez Doris, a shelter for women in distress.

Sexual Assault Panel Discussion

by Mayo Moran, LL. B. II

McGill Women and the Law in conjunction with Student Rights Awareness Week will be presenting a panel discussion on sexual assault. The discussion will focus on the process which a victim can expect following an assault. Members of the panel will include a doctor, and representatives of the M.U.C. police force, the Rape Prevention Center, and the legal system. After being presented with a scenario involving a sexual assault, each of the panel members will describe the action the victim should take and what is involved in taking that action. After the process from initial report through legal proceedings has been discussed, there will be an open forum for questions. This will take place on Wednesday, February 1 at noon, location to be announced.

The Wailing Wall
cont'd from p.4

of birth once every eleven years. And of course, Vulcans must return to Vulcan once every seven years for the Ponn Farr. The Plak Tow (blood fever) takes hold and what often results is the Kunut Kalifee (battle for possession of the woman in question.) Watch Star Trek and see the process in action. But I digress.

Anyway, if you've ever watched media coverage of the Pilgrimage to Jerusalem you've seen the phenomenon. And the drama is replayed in our very own environment. Doves of devotees flock to the Wall. And in trance-like meditation, they ritualistically sway before it, some hugging themselves, some moved to tears by the sheer euphoria brought on by the moment. The Divine Inspiration comes to us in the Professor's Word passed on to us mere mortals in the form of letters, plus or minus. For some, the experience is so moving that they return to the Wall again and again the same day. Disbelief (in what can be nothing other than miraculous communication with the deities on high who bestow their Word upon us) is suspended, and the experience is relished for what it is—an affirmation that Professor really does work in mysterious ways.

This mystery is compounded by the not-so-subtle realization that grades have nothing whatsoever to do with what an individual disciple may know (or not know) about the Teachings of his Master. For Professor recognizes the intrinsic worth of his Children, and blesses them according to his Whim.

The benefit of Fundamentalism is that the masses follow religiously and "unfailingly" without question. For Administration does not revise the word of Professor unless Child has sinned and not "passed" the Word on correctly. Even then, the Arch-Angel simply recognizes Professor's unquestioned dominion over all Exam Creations, and dogmatically blesses His Word.

Oh, try not to escape, ye lowly and imperfect creation. For Professor's Word will follow you everywhere until the end of Eternity, his

cont'd on p.7

Le Gouvernement des juges: Pourquoi pas?

par Jeanne Cadorette, LL.B IV

Il est fascinant de voir la place qu'occupent les tribunaux dans notre société à différentes époques. Par moment, le principe de souveraineté législative prend le pas sur tous les autres et le Parlement devient la voix prédominante et presqu'exclusive de nos choix de société. Pendant ces périodes la déférence des tribunaux envers le pouvoir législatif transparaît dans presque tous les jugements et nous ramène des phrases trop souvent lues concernant le rôle traditionnel des tribunaux par-rapport aux représentants du peuple. Le pouvoir judiciaire au Canada a très longtemps suivi et constaté les changements sociaux plutôt qu'en être l'artisan.

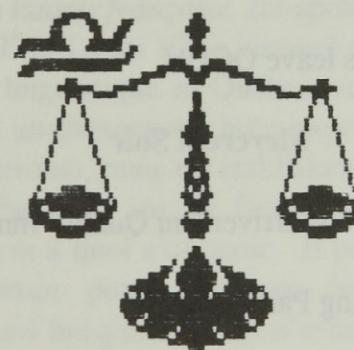
Puis le rôle des tribunaux canadiens a changé, comme s'il fallait rattraper la tendance des tribunaux américains beaucoup plus visibles dans leur société, comme si tout à coup le besoin s'était fait sentir de prendre une part active dans l'énonciation des principes qui sous-tendent ou du moins devraient sous-tendre notre société.

L'une des raisons évidentes de cette affirmation du pouvoir judiciaire est l'introduction d'une charte des droits et libertés dans le paysage juridico-politique canadien. L'activisme des tribunaux demande une volonté de la part du judiciaire d'aller au-delà d'une constatation pure et simple de droits reconnus par le Législateur mais il exige aussi que les magistrats aient les outils nécessaires pour rendre des décisions différentes. La Charte des droits et libertés est venue combler ce besoin.

L'équilibre qui existe entre les formes de

pouvoir que sont l'exécutif, le législatif et le judiciaire est fragile. L'exécutif puis le législatif ont pris successivement le devant de la scène. Le pouvoir judiciaire prend maintenant une place de plus en plus visible pour le commun des mortels. Les décisions deviennent des événements-média comme nous l'ont bien démontré celles de la Cour Suprême du Canada sur l'avortement et sur la langue d'affichage au Québec. Dans ces cas (et dans d'autres certainement) nos plus hauts magistrats donnent à la société canadienne une certaine orientation; dans des problèmes très controversés ils font des choix "politiques" favorisant une solution plutôt qu'une autre.

Certains diront que c'est là une ingérence



The Wailing Wall cont'd from p. 6

Judgement inscribed on stone transcripts that you will carry and display for the rest of your meager earthly existence.

If you are lucky, you will pass through your time in this Faculty. But, to make up for your Sins, you will have to descend into Purgatory. For a year, you will listen to the Bar tell you things you already know. Your pain will be excruciating, but you will have been cle-

impardonnable dans les pouvoirs traditionnellement dévolus aux représentants élus du peuple. N'occupent-ils au fond que la place que nos élus hésitent à prendre? La force du pouvoir judiciaire actuel n'est peut-être aussi visible qu'à cause de la faiblesse du législatif et de l'exécutif. Faire des choix, prendre des décisions exige du courage car choisir c'est risquer de ne pas plaire à tout le monde. En laissant les tribunaux décider des questions difficiles et établir les paramètres d'intervention future nos élus n'encourent qu'une responsabilité atténuée.

Les critiques se feront probablement de plus en plus virulentes chaque fois que des décisions importantes touchant des sujets chauds seront prises par la Cour Suprême. Le caractère non-élu des juges et leur mode de nomination seront certes des arguments dans les mains de ceux qui voient en nos magistrats des usurpateurs du pouvoir du peuple. Mais quand des choix devront être faits, sans trop de compromis et de tergiversations, qui aura le courage d'en prendre la responsabilité, nos élus si sensibles aux vents de l'opinion publique changeante ou des juristes non-élus?

ansed. And then, you will ascend to Heaven, where you will practice your teachings devoutly and unerringly (on pain of Malpractice).

So you see, you believe you live a secular existence. YOU ARE WRONG. REPENT. Give Professor his Word when examined. Try not to create or interpret his teachings. Be dogmatic, for that is the true way to revelation, and the only way that your bi-annual Pilgrimage to the Wailing Wall will be fulfilling. AMEN.

Sports Corner

Le Coin des Sportifs

The **Law Curling Festspiel** took place January 15. The team of Lisa Balaban, Norbert Haensel, Richard Swan and Skip Gail Karish swept to victory. The natural talent of this team ultimately prevailed over the team of Benjy Glustein, Peter Hoffman, André Ouellette and Lyn Wilson in the finals. The early demise of the team led by favourite (and Law Games Champ) Dean Proctor in the semi-finals shocked some.

Many thanks to David Steele for organizing this brutal competition.

Jeux-Ridiques / Law Games

Schedule / Horaire

Wednesday Afternoon

- 14h00 Autobus-1 prend les participants au OCDH
- 14h30 Party at Université de Montréal <Bus-1>
- 16h30 Autobus-1 quitte l'Université de Montréal
- 17h00 Beer on sale in the L.S.A. (\$18 / case)
- 17h00 Embarquement des participants dans les Autobus-1 et Autobus-2 au OCDH
- 17h30 Buses leave OCDH

Mercredi Soir

- 20h30 Autobus arrivent au Quality Inn à Ste-Foy
- 22h00 Opening Party

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Happy House Coffee Hour

*Every Thursday in the Common Room from 3pm to 5pm
Chaque jeudi au Common Room de 15h à 17h*

party law '89 party law '89 party law '89 party law '89